

2018 Fiscal-year Blended Tax Rates for Corporations

Notice 2018-38

PURPOSE

This notice provides guidance on the changes made by “An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018,” P.L. 115-97 (the Act), to federal income tax rates for corporations under § 11(b) of the Internal Revenue Code (Code) and to the alternative minimum tax for corporations under § 55 and on the application of § 15 in determining the federal income tax (including the alternative minimum tax) of a corporation for a taxable year that begins before January 1, 2018, and ends after December 31, 2017.

BACKGROUND

Section 11(a) of the Code imposes a tax on the taxable income of every corporation (corporate tax). Prior to changes made by the Act, § 11(b) provided that the amount of tax imposed was based on a graduated rate structure starting at 15 percent of the corporation’s taxable income and increasing to 35 percent of taxable income. In addition, § 55(a) imposed a tax (the “alternative minimum tax” or AMT) equal to the excess, if any, of the tentative minimum tax (TMT) for the taxable year, over the corporate tax for the taxable year. Section 55(b)(1)(B) provided that in the case of a corporation, the TMT for the taxable year is 20 percent of so much of the alternative

minimum taxable income (AMTI) for the taxable year as exceeds the exemption amount, reduced by the alternative minimum tax foreign tax credit for the taxable year.

Section 13001(a) of the Act amended § 11(b) of the Code to provide that the amount of tax imposed by § 11(a) shall be 21 percent of a corporation's taxable income. Section 13001(c)(1) provides generally that this change in the tax rate for corporations is effective for taxable years beginning after December 31, 2017.

Section 12001(a) of the Act amended § 55(a) of the Code by limiting the application of the AMT to non-corporate taxpayers, thereby repealing the AMT for corporations. Section 12001(c) of the Act provides that the changes made by § 12001 apply to taxable years beginning after December 31, 2017.

Section 15(a) of the Code provides that if any rate of tax imposed by chapter 1 of the Code changes, and if the taxable year includes the effective date of the change (unless that date is the first day of the taxable year), then –

(1) tentative taxes shall be computed by applying the rate for the period before the effective date of the change, and the rate for the period on and after such date, to the taxable income for the entire taxable year; and

(2) the tax for such taxable year shall be the sum of that proportion of each tentative tax which the number of days in each period bears to the number of days in the entire taxable year.

Section 15(b) of the Code provides that for purposes of § 15(a), if a tax is repealed, the repeal shall be considered a change of rate, and the rate for the period after the repeal shall be zero. Section 15(c) provides in part that for purposes of § 15(a)

and (b), if the rate changes for taxable years “beginning after” or “ending after” a certain date, the following day shall be considered the effective date of the change.

APPLICATION

Corporate Tax under § 11

The changes made by § 13001 of the Act to the federal income tax rates imposed on corporations under § 11(b) of the Code are effective for taxable years beginning after December 31, 2017. Under § 15(c), for purposes of § 15(a) and (b), the effective date of the change made by § 13001 of the Act is January 1, 2018. The computation of tax provided under § 15(a) applies to a change in any rate of tax imposed by chapter 1 of the Code if the taxable year includes the effective date of the change, unless that date is the first day of the taxable year. The tax under § 11 is a tax imposed by chapter 1 of the Code. Consequently, a corporation with a taxable year that includes January 1, 2018, but does not start on that day, must apply § 15(a) to determine the amount of federal income tax imposed under § 11 for that taxable year. Pursuant to § 15(a), a tentative tax of a corporation for the taxable year that includes January 1, 2018, shall be computed by applying the rates of tax imposed under § 11(b) prior to the change of the tax rate under § 13001 of the Act, and a tentative tax for a corporation shall be computed by applying the 21 percent rate of tax imposed under § 11(b) as amended by § 13001 of the Act. The tax imposed under § 11 for the taxable year that includes January 1, 2018, is the sum of that proportion of each tentative tax which the number of days in each period bears to the number of days in the entire taxable year.

Other Applications using § 11(b) Rates

Certain taxpayers, such as life insurance companies and regulated investment companies, are not subject to the tax imposed under § 11(a), but are nonetheless taxed under other Code provisions that use the rates of tax set forth in § 11(b). The application of § 15 will apply in determining the chapter 1 tax for these taxpayers in the same manner as described above for corporations subject to the tax imposed by § 11(a).

Alternative Minimum Tax under § 55

Section 12001 of the Act repealed the application of the AMT imposed under § 55 to corporations effective for taxable years beginning after December 31, 2017. Under § 15(b), the repeal of a tax shall be considered a change of tax rate, and the rate for the period after the repeal is zero for purposes of § 15(a). As a result, the repeal of the AMT for corporations is a change in the TMT rate from 20 percent to zero. Further, under § 15(c), the effective date of this change of rate is January 1, 2018. The computation of tax provided under § 15(a) applies to a change in any rate of tax imposed by chapter 1 of the Code if the taxable year includes the effective date of the change, unless that date is the first day of the taxable year. The tax under § 55 is a tax imposed by chapter 1 of the Code. Consequently, a corporation with a taxable year that includes January 1, 2018, but does not start on that day, must apply § 15(a) to determine the amount of its TMT for that taxable year. Pursuant to § 15(a), a tentative TMT for the corporation shall be computed by applying the 20 percent TMT rate provided under § 55(b)(1)(B) prior to the change under § 12001 of the Act, and a tentative TMT shall be computed by applying the zero percent TMT rate resulting from

the repeal under § 12001 of the Act of the AMT for corporations. The corporation's TMT for the taxable year that includes January 1, 2018, is the sum of that proportion of each tentative TMT which the number of days in each period bears to the number of days in the entire taxable year.

EXAMPLE

The following example illustrates the application of § 15(a) of the Code in determining the tax under §§ 11 and 55 of a corporation using a fiscal year as its taxable year for the taxable year that includes January 1, 2018.

Example. Corporation X, a subchapter C corporation, uses a June 30 taxable year. For its taxable year beginning July 1, 2017, and ending June 30, 2018, X's taxable income is \$1,000,000, and its AMTI in excess of its AMT exemption amount is \$2,000,000.

Computation under § 11

Corporation X's corporate tax under § 11 of the Code is computed by applying § 15(a) as follows:

1) Taxable income (Line 30, Form 1120)	\$ 1,000,000
2) Tax on Line 1 amount using § 11(b) rates before the Act	340,000
3) Number of days in Corporation X's taxable year before January, 1, 2018	184
4) Multiply Line 2 by Line 3	<u>62,560,000</u>
5) Tax on Line 1 amount using § 11(b) rate after the Act	210,000
6) Number of days in the taxable year after December 31, 2017	181
7) Multiply Line 5 by Line 6	<u>38,010,000</u>
8) Divide Line 4 by total number of days in the taxable year	171,397

9) Divide Line 7 by total number of days in the taxable year	<u>104,137</u>
10) Sum of Line 8 and Line 9	<u>\$ 275,534</u>

Under § 15(a), Corporation X's corporate tax for its taxable year ending June 30, 2018 is \$275,534.

Computation under § 55

Corporation X's TMT and resulting AMT under § 55 of the Code is computed by applying § 15(a) as follows:

1) AMTI in excess of AMT exemption amount (Line 9, Form 4626)	\$ 2,000,000
2) TMT on Line 1 amount using § 55(b)(1)(B) rate before the Act	400,000
3) Number of days in Corporation X's taxable year before January 1, 2018	184
4) Multiply Line 2 by Line 3	73,600,000
5) Divide Line 4 by total number of days in the taxable year	<u>\$ 201,644</u>

It is unnecessary to compute a TMT for the portion of the taxable year beginning on and after the effective date of § 12001 of the Act because the TMT is repealed as of the effective date for purposes of applying § 15(a). Corporation X's TMT for its taxable year ending June 30, 2018 is \$201,644. Because this TMT amount for the taxable year does not exceed Corporation X's corporate tax amount of \$275,534, Corporation X does not have an AMT liability for its taxable year ending June 30, 2018.

APPLICABILITY DATE

This notice applies to taxable years of corporations that begin before January 1, 2018, and end after December 31, 2017.

CONTACT INFORMATION

For further information regarding this notice, contact Bill Jackson at (202) 317-4731 or Forest Boone at (202) 317-4904 (not a toll-free call).